

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.7384 OF 2007

Dated:30th APRIL, 2007

BETWEEN:

Patrika Nagar Welfare Association, rep.by its
Working President P.S.Sundaram

... Petitioner

And

The Principal Secretary, State of Andhra Pradesh, Municipal
Administration and Urban Land Ceiling Department, Secretariat,
Hyderabad and others.

... Respondents

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ORDER:

Patrika Nagar Welfare Association filed the writ petition seeking a writ of Mandamus directing respondents 1 to 5 herein to take into consideration the survey conducted by sixth respondent as per file No.K3/1727/2006 and K3/1724/2006 in respect of land comprised in survey Nos.77 to 84 of Madhapur village while disposing of the applications made by the members and plot owners of petitioner Association for regularization as per the guidelines issued in G.O.Ms.No.455, dated 29.07.2002. The petitioner also seeks a declaration that the action of respondents in not taking into consideration the earlier survey is illegal.

As per the affidavit filed by President of petitioner Association accompanying the writ petition, the case of the petitioner is as follows. Kondakal Pentaiah and Samleti Balaiah Balaiah and others are owners of the land in survey Nos.77 to 84 situated at Madhapur village of Serilingampally Mandal, Ranga Reddy District (hereafter called, the

subject land). They prepared a layout and submitted the same for approval to Hyderabad Urban Development Authority (HUDA) on 19.03.2001. The land in survey No.64, which was divided into plots by HUDA is situated on the western side of the land in survey Nos.77 to 84. This land is separated by boundary stones as the land purchased by petitioners was situated in peripheral areas. A.P.Industrial Infrastructure Corporation (APIIC) also owns part of the land in survey No.64, which was handed over to K.Raheja I.T. Park (Hyderabad) Private Limited. In the layout prepared by Balaiah, journalists purchased plots under registered sale deeds. They formed into Patrika Nagar Welfare Association – petitioner herein. The petitioner was under the impression that the subject land is exempted as per the orders of Government in G.O.Ms.No.733, dated 31.10.1988 but subsequently they came to know that the benefit of the said G.O., is not extended to the land. Therefore, the members of petitioner Association filed applications before the Special Officer (Urban Land Ceiling) - fifth respondent; seeking regularization under G.O.Ms.No.455, dated 29.07.2002. In response thereto, notice dated 04.08.2005 was issued to the applicants to submit the approved layout, which was duly furnished. Fifth respondent did not take any action and when the members interfered, they came to know that survey was ordered by fifth respondent. No notice of survey was, however, given to the members of the petitioner Association and survey was conducted without reference to boundary stones fixed during earlier survey conducted by competent authority. When fifth respondent sought to dispossess the members of the petitioner Association and other applicants, based on such survey, the petitioner Association made a representation on 15.05.2006 to third respondent. On his instructions, sixth respondent issued notice of survey and demarcation vide RC No.A/848/06, dated 11.08.2006. In the survey, sixth respondent identified and demarcated boundaries of the land in survey Nos.77 to 84 of Madhapur village, on which the colony of petitioner Association is situated. The petitioner then made a representation to respondents 1 to 3 and 5 to take into consideration the survey conducted by sixth respondent, in vain. Therefore, the present writ petition is filed.

After hearing learned counsel for petitioner and giving anxious consideration to the grievance ventilated in the writ petition, this Court is of considered opinion that the writ petition is premature and petitioner Association has no cause of action with reference to applications made under G.O.Ms.No.455, dated 29.07.2002. Admittedly, members of petitioner Association made applications seeking regularisation under G.O.Ms.No.455. These applications are still pending. The petitioner Association or its members apprehend

that while sending a report to the Government, fifth respondent might ignore the survey conducted by Assistant Director in 2006 and may give importance to survey conducted by ULC authorities. If that be so, when the report is sent by fifth respondent, it is always open to the members of petitioner Association to submit all the details. There cannot be any doubt that under G.O.Ms.No.455, it is only the Government to allot land under Section 23(4) of Urban Land (Ceiling & Regulation) Act, 1976 and whatever the report submitted by fifth respondent either based on the survey conducted by him or the survey conducted by Assistant Director, the ultimate authority is the Government. In exercise of extraordinary powers, this Court cannot give any direction to competent authority either to take into consideration particular piece of evidence or to eschew particular piece of evidence.

The writ petition is misconceived and is accordingly dismissed.
No costs.

(V.V.S.RAO,J)

30.04.2007.

pln